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*Attorneys for Plaintiffs*

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

CHASOM BROWN, WILLIAM BYATT,  
JEREMY DAVIS, CHRISTOPHER  
CASTILLO, and MONIQUE TRUJILLO  
individually and on behalf of all other similarly  
situated,

Plaintiffs,

v.

GOOGLE LLC,

Defendant.

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Case No.: 4:20-cv-03664-YGR-SVK

**[PROPOSED] ORDER DENYING  
GOOGLE'S MOTION TO STAY (DKT.  
1148)**

Judge: Hon. Yvonne Gonzalez Rogers

1 Before the Court is Google’s Motion to stay proceedings in this case until after the Ninth  
2 Circuit rules on the *Salcido* Intervenor’s appeal of this Court’s denial of intervention. *See* Dkt.  
3 1148 (“Motion to Stay”). The Court has considered all papers, evidence, and argument submitted  
4 in support of and in opposition to the Motion to Stay. For the reasons explained below, Google’s  
5 Motion to Stay is **DENIED**.

6 Google argues that, because of the Intervenor’s appeal, this Court lacks jurisdiction to  
7 decide (1) Plaintiffs’ Unopposed Motion for Final Approval of Class Action Settlement (Dkt.  
8 1096) and (2) Plaintiffs’ Motion for an Award of Attorneys’ Fees, Costs, and Service Awards  
9 (Dkt. 1106). Google claims jurisdiction is lacking because the Intervenor’s appeal “directly  
10 challenges approval of the Settlement Agreement.” Dkt. 1148 at 3.

11 The Court disagrees. The Intervenor is not challenging the settlement agreement; they  
12 instead seek to appeal the denial of Rule 23(b)(3) certification. Google has elsewhere admitted  
13 that the “proposed settlement in this case related to injunctive relief only” and that the Intervenor  
14 seek to intervene “for purposes of appealing the Court’s class certification order.” Dkt. 1136 at  
15 5-6. The Intervenor has likewise confirmed they are not “objecting [to the] class settlement of  
16 the injunctive relief claims.” Ex. 2 to Lee Decl.

17 Nor is there any merit to Google’s argument that, if the Intervenor succeeds, “material  
18 provisions of the Settlement Agreement may change or be frustrated.” Dkt. 1148 at 5. Google  
19 cites no provision in the settlement agreement to support that argument. Nor could Google; under  
20 the settlement, only the named Plaintiffs waived the right to appeal this Court’s Rule 23(b)(3)  
21 class certification decision. Dkt. 1097-4 at 6 § II.8.

22 Because the Intervenor’s appeal does not challenge the settlement agreement, this Court  
23 retains jurisdiction to decide Plaintiffs’ Unopposed Motion for Final Approval of Class Action  
24 Settlement (Dkt. 1096) and Plaintiffs’ Motion for an Award of Attorneys’ Fees, Costs, and  
25 Service Awards (Dkt. 1106). *See United States v. Pitner*, 307 F.3d 1178, 1183 n.5 (9th Cir. 2002)  
26 (“[D]uring an interlocutory appeal, the district court retains jurisdiction to address aspects of the  
27 case that are not the subject of the appeal.”).

1 This Court has discretion to issue a stay, but declines to do so. Google’s Motion to Stay  
2 does not cite the standard for granting a discretionary stay pending an appeal. In any event,  
3 Google does not meet the standard, including because (1) Google has not argued this Court’s  
4 intervention decision is likely to be reversed, and (2) Google has not explained how denying the  
5 stay and ruling on the pending settlement-related motions would subject Google to irreparable  
6 harm. *See E. Bay Sanctuary Covenant v. Trump*, 932 F.3d 742, 769-70 (9th Cir. 2018) (“The  
7 party requesting a stay bears the burden of showing that the circumstances justify an exercise of  
8 that discretion, and our analysis is guided by four factors”: (1) whether the appellant “is likely to  
9 succeed on the merits”; (2) “whether the applicant will be irreparably injured absent a stay”; (3)  
10 “whether issuance of the stay will substantially injure the other parties interested in the  
11 proceeding; and (4) where the public interest lies.”); *see also Chalian v. CVS Pharmacy, Inc.*,  
12 2020 WL 6821316, at \*1 (C.D. Cal. Nov. 10, 2020) (applying this standard and denying motion  
13 for a stay pending an appeal of an intervention denial following a class action settlement,  
14 particularly because the court was “not persuaded” that its denial of intervention was “erroneous  
15 or likely to be reversed”).

16  
17 **IT IS SO ORDERED.**

18  
19 DATED: \_\_\_\_\_

\_\_\_\_\_  
Honorable Yvonne Gonzalez Rogers  
United States District Judge